Cow slaughter ban in India—milking of the Democracy loophole

You are at work; kids in school. A person rings your doorbell. Your wife opens the door and the person barges in. He dashes to your fridge and scrambles through the freezer box and drops the contents to the floor. He finds red meat (perhaps mutton?), deems it beef and books you! If that’s not eccentric enough, the onus is on you to prove that the meat is not beef! It’s effectively- "guilty until proven innocent". We are referring here to the legal provisions of the cow slaughter ban in India. The law is legislated by the state governments for their respective states. Let’s consider Madhya Pradesh Prohibition of Cow Slaughter (amendment) Bill 2010 for instance. The Act has a provision which states that any police officer not below the rank of head constable shall have the power of entry, inspection, search and seizure and to present the case in the court. Even storing or transporting beef will be punishable with a minimum term of six months, extendable up to three years.¹

Cow slaughter. Some eyes water; some mouths water.

Currently the legislation in various states and union territories is as below:

<table>
<thead>
<tr>
<th>Total ban or restricted</th>
<th>Andhra Pradesh, Bihar, Delhi, Daman&amp;Diu, Gujarat, Jammu &amp; Kashmir, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Orissa, Puducherry, Punjab, Haryana, Himachal Pradesh, Rajasthan, Uttar Pradesh, Chhattisgarh, Uttarakhand, Sikkim, Andaman &amp; Nicobar, Dadra &amp; Nagar, Manipur</th>
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<tr>
<td>Permissible on obtaining a fit-for-slaughter certificate</td>
<td>Assam, Goa, Tamil Nadu, West Bengal, Jharkhand</td>
</tr>
<tr>
<td>No legislation</td>
<td>Meghalaya, Nagaland, Mizoram, Arunachal Pradesh, Kerala, Lakshadweep, Tripura</td>
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There is a ban in the slaughter of other members of the bovine family as well such as bulls and buffaloes in many states. The Penal provisions too vary from state to state, ranging from imprisonment of a maximum of six months to imprisonment of a maximum of seven years along with fines. The burden of proof of innocence lies on the accused.²³⁴

Why ban?

For a non-Indian this could be a perplexing question. What could be the rationale for such a law with stringent provisions as up to seven years imprisonment which dwarfs the punishment prescription for many serious crimes such as theft (~3), bribery (~1), rioting (~2), dowry death (~7 to life), attempt at culpable homicide (~3), assault to outrage modesty of woman (~2), rape (~7 to 10), theft (~3), cheating (~1), attempt to commit sati (~1)?⁵ ~[up to in years]

While the rationale can get as incredible as the one quoted by the VHP that "The trembling and wailing of the cows being slaughtered lead to earthquakes"⁶, the common reason quoted by the proponents of the ban who usually are the right-wing politicians is that the cow is considered sacred by the Hindus and hence its slaughter would be sacrilegious to them. Although they mostly rely on widely-held beliefs and customs of the upper-class Hindus to back their claims, the more erudite amongst them quote verses from the Hindu scriptures. Examples of which are- "Do not kill the cow..." (Rigveda 8.101.15). "Destroy those who kill cows." (Yajurveda 30.18). However, the opponents quote seemingly contrasting verses which state that the bovines were killed for sacrifice and food in slaughterhouses (Rigveda 10.89.14), (Rigveda 10.7.6).
For our purpose, let’s leave the scriptures alone and analyse the ground reality. Did the Hindus always abhor cow slaughter? Are all Hindus currently averse to eating beef? Are the Muslims the real “cow killers” as is connoted by the Saffron brigade?

In Swami Vivekananda’s words - “There was a time in this very India when, without eating BEEF, no Brahmin could remain a Brahmin”

“. . . It is only in the 19th century that the demand for banning cow-slaughter emerged as a tool of mass political mobilisation by right-wing Hindu communalists”. -D.N. Jha, Professor of history of Delhi University and a member of the Indian Council of Historical Research. 

“But the theory that in Vedic times there was no cow slaughter is historically inaccurate. Although cow was revered and treated as sacred, it was also offered as food to guests and persons of high status.” – Romila Thapar, renowned historian.

Who eats it?

Surveys of butchers in different states show that three-fourths of all beef is consumed by non-Muslims. Dr Karan Singh (Former ambassador to the US and son of erstwhile Maharaja Hari Singh of Kashmir) mentions that in Kashmir, a Muslim majority, no one eats beef. The affluent eat mutton while poor eat buffalo meat. In the Northeast, beef is a staple with all the tribal communities. P.A. Sangma, former Lok Sabha speak and ex-CM of Meghalaya stated that a national ban on beef would create a food crisis among the people of North-east. In Kerala, beef is consumed by 80% of the population including 72 Hindu communities. The author of “Buffalo Nationalism”, Kancha Ilaiah, says “In the south, 90 per cent of Dalits eat cow beef, apart from Christians and Muslims. Several backward communities eat cow beef. Most of the poor would starve to death if there is a national ban”. Chandra Bhan Prasad, a Dalit writer adds “If they say Hindus are demanding a ban on cow slaughter then they don’t consider Dalits to be Hindus.”

Who sells it?

"Most of the money in the bovine trade is made by Hindus," says Vilas Sonawane, who began the ‘Right to Non-vegetarian Food and Leather Industry Protection Committee’. Of the top five exporters of buffalo meet in the country, three are Hindus. In fact, India’s biggest beef exporter, Al Kabeer, is owned by a Hindu. Even the leather industry is topped by firms owned by non-Muslims. Even more interestingly, one of BJP leaders and a Bajrang Dal activist (both right-wing parties demanding the ban), Vipin Bilauha was booked along with his accomplices under MP Prohibition of Slaughter of Cow-progeny Act for transporting over 150 cows and calves for cow slaughter earlier this year. The SP investigating the case said they were involved in illegal cross-border transport of cows. Ironically, Bilauha was the erstwhile district convener of BJP’s cow cell and used to regularly raid vehicles to inspect if cows were being transported for slaughter!

Rationalising the ban

Coming back to the reasoning of the ban, the center-right groups quote Article 48 of Directive Principles of State Policy contained in part 4 of the Constitution of India “The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle”.

It’s important to note two points in this regard. Firstly, the Directive Principles are guidelines and are not cognizable or enforceable by any Court. They are hardly adhered to by the states and are used by the respective governments to formulate laws that keep their
voters' base pleased. If they had to be enforced then there would be no Reservations for the backward classes, no Hindu Marriage Act, no HUF tax provisions, etc. (Read: Article 44). Secondly, while the Article in itself seems apparently to be prohibiting cattle slaughter, one has to bear in mind that it cannot override the secular basis upon which the constitution is laid. The constitution provides for the ‘Right to carry on any occupation, trade or business’ (Art. 19) and ‘Freedom of practice and propagation of religion’ (Art. 25). Hence, the interpretation of the Article cannot be that it is seeking to protect the interests of the Hindus in particular. Because then, there could be a demand pressed for the ban on alcohol for instance, as it is shunned by the Muslims, or on uprooting onions and garlic as it is a taboo to the Jains, or on abortion as that is a mortal sin for the Christians. The secular reasoning of the law is also evident from the case laws such as "AIR 1959 SCR 629" and "AIR 1961 SC 448” where the Supreme court held that "A total ban [on cattle slaughter] was not permissible if, under economic conditions, keeping useless bull or bullock be a burden on the society and therefore not in the public interest."¹⁸

Let's analyze then, if there is a business case for the ban.

**Moo..ney matters**

India is amongst the top beef exporters in the world with projections saying that it would be the top exporter by 2013. Export earnings on beef was around Rs 14,000 crore in 2011—12, expecting to rise to Rs 18,000 crore in 2012-13. Indian leather Industry is a prominent sector in the Indian economy in terms of employment generation (2.5 million workforce) and export earnings (is among the top ten foreign exchange earners for the country). Export in 2011-12 was $4,868 million translating in current exchange rates to Rs 26,300 crore, making it the 5th largest global exporter of leather goods.¹⁹ ²⁰ ²¹ ²² ²³

Beef does not just translate to *sheekh kebab* or steaks, but its by-products like stearic and fatty acids, beef fat, could be used to produce lots of products in our day-to-day life more economically, such as soaps, paints, tires, asphalt on roads, lubricants, gelatin, bone china, cosmetics, glue, insecticides, molds for plastics, ink, textiles, upholstery and many more. Since cattle have great similarities in organic chemical structure to humans, our bodies will easily accept medications from these animal components. Hence used in producing Insulin, Heparin, Thyrotropin, Glucagon, etc. We cannot even quantify the economic benefits here.²⁴

As per the last livestock census in 2007, India is home to some 304 million bovines. According to USDA report, 3.6 crore bovines were slaughtered in 2012 in India. Now, cattle have an average lifespan of 20 yrs and buffaloes 25 yrs. A cow usually does not produce profitable levels of milk beyond 5 yrs of age. Yet, if taken good care of, they can still produce milk although not at levels that justify their feeding costs, for 10-12 yrs of age. Thus, if the slaughtered bovines had to be kept alive for eight years beyond their economic usefulness, it would be 3.6 crore additional heads EACH year. If only their feeding costs at Rs12 per day (excluding cowshed, labor and other costs) has to be taken into account, it would mean Rs1,26,144 crore additional burden on the exchequer. If this cost has to be recovered by the cattle farmers, they have to increase the price of milk by so much. Not to forget the multiple times more pastureland that will be required. Already, there are more cows in India than there are cars in USA and only 60 percent of India's cattle have enough feed. According to K R Ramaswamy, former director of the IIM-B, India must cull half its bovine population as they are unhealthy and cannot be looked after.²⁵ ²⁶ ²⁷ ²⁸ ²⁹ ³⁰ ³¹ ³² ³³ ³⁴

If we add up the total export income loss (not considering the domestic revenue loss) on beef and leather and the cost of upkeep of the animals at a conservative estimate, it would sum up to Rs1,66,444 crore! To fund this, the Indian government has to reduce its budget
on Defence AND Education by 70% (Budget- Defence: 170,913 cr, Education: 60,146 cr), or it must extend its external debt by almost 100% (which is currently 170,088 cr).

Bovine rights

It would be hypocritical to prevent an animal from being slaughtered on compassionate grounds only to let it meander about the streets malnourished, feeding on plastic, paper, and even human waste thus developing a disease called 'Pica'. About 50 kgs of waste can be found on average in a stray cattle’s stomach. The Gaushalas (cow sheds) can hardly shelter a fraction of the cows. Stray cows also obstruct roads, causing jams and even accidents. As per a survey in 1995 50 cattle everyday were killed or severely injured in traffic per day (Kare Newsletter, 1995).

Furthermore, the activists conveniently ignore the fact that milking causes pain. The cows are repeatedly impregnated for a steady supply of milk, and with the introduction of electronic machines, they suffer electrical shocks, painful lesions and diseases. Most of the activists gulp down glasses of milk and tea gleefully with a sense of self-righteousness of having saved the cow from the ‘ruthless’ butchers. Talking of compassion, in any case why single out the cattle? An unbiased person would agree that unless all living species are accorded equal rights to life, the animal rights campaign in favour of cow slaughter ban holds no water.

A Veg Wedge Issue

So, the argument dissected. The “rationale” punctured. Yet, the question remains- Why ban? The answer in a single term is, ‘Wedge Politics’, more commonly known in India as ‘Divisive Politics’. It can be defined as "A strategy or pattern of behavior by a politician, political party, or advocacy group which is intended to have a divisive effect on one’s political opponents or on the electorate, especially by emphasizing an issue which polarizes opinion along racial, regional, or other demographic lines."

Aaron Kiss writes in his paper on "divisive politics and accountability"- "It is shown that politicians have a strategic incentive to engage in ‘divisive politics’". Aaron’s research has been corroborated by the political players of the world time and again. Be it the "gods, guns and gays” strategy employed by the Republicans in the US, or the Burqa ban in France or Islamophobia by the Right-wing parties in Netherlands, France, Denmark and other Western countries, or Immigration laws in the affluent countries, wedge issues have proven to be a profitable tool to political parties and a shot in the arm to the career of budding politicians. Narendra Modi, for instance, has never lost an election since the 2002 Gujarat riots. Babri Masjid demolishing on Dec 6, 1992 was the wave that removed the Congress from power and paved the way to bring the BJP into power and carried A B Vajpayee to No. 7 Racecourse road in 1996. It would be wrong to assume that the wedge card is engaged only
by the Right. The 1984 Sikh riots and even the Babri demolition took place with Congress at the Centre. While caste-based reservations quota is the favorite manifesto of the SP and the BSP, the Left pursue anti-globalization to polarize the population. It’s not the case of Right vs Wrong here. But it’s about Majority vs Minority, Rich vs Poor, Lower caste vs Upper caste, Blacks vs Whites, Men vs Women, etc. Aaron continues, "By polarizing the electorate, the incumbent politician weakens the ability of independent voters to make him accountable for his policies in the common interest... Accountability is weakened by cleavages in the electorate and even by what could be called the 'market power' of political parties." That's the game and that's how it's played. In the game the minorities are often used as the pawns. In the political system designed by the capitalists, the political parties have no real incentive in serving the people. All they’ll have to do is to secure a 51% and there is a luxurious life that’s beckoning. And the way to do that is to build a perception amongst the people that they are the ‘best of the worst’. Because what could be worth reducing your defence and education budget combined, by a staggering 70% of the current levels other than reducing poverty or providing free health care or even controlling crime in a country with 68% population living on less than Rs 100 a day and where every 20 mins a rape is recorded? The politicians seem to think otherwise. More precisely, their actuaries and strategists seem to think otherwise. An argument made for good politicians can only get as far as mortals with limited knowledge and understanding of the nuances of the functioning of the world, making laws on a ‘trial and error’ approach.

Political parties in Islam

The Islamic system is a no-nonsense system. The laws are fixed by divine decree through the Quran and Sunnah. They are not subject to human legislation. Hence, laws are not made by desk-banging and fist-fighting in the parliament. The role of a political party or an Islamic group is the fulfillment of the command of the Ayah of the Quran, "Let there arise from amongst you a group calling to the Goodness (al-Khayr) and enjoining what is good (al-Ma’ruf) and forbidding what is evil (al-Munkar); and those are the ones who will attain success" [TMQ Ale-Imran: 104]. Even the good and bad are defined by the texts. Hence, no Islamic party can gain legitimacy outside the scope of this Ayah. Therefore, no party in the Islamic system has the incentive to create wedge issues such as the one in question to garner support because they cannot have a manifesto that pleases a certain group of people and that which is against established guidelines in Islam. The differences between parties would be in trivial permissible differences of opinion that are not radical issues having the potential to split the population or oppress the minorities.

With respect to that it would be worthwhile to note certain provisions of the constitution of the Khilafah as regards the Ahl-ul-Dhimmah (non-Muslim citizens of the Islamic state). But before that let’s also look at what Islam mandates with regards to treating animals well.

Animal Rights in Islam

Allah (SWT) says in the Quran, "There is not an animal that lives on the earth, nor a being that flies on its wings, but they form communities like you." (TMQ 6:38). Islam prohibits hunting animals for sport, treating them cruelly, overburdening them, making them fight each other for entertainment, maiming them while alive and neglecting pets. “The Messenger of Allah (SAWS) narrated that "A good deed done to an animal is as meritorious as a good deed done to a human being..." (Mishkat). The Prophet (SAWS) said "If someone kills so much as a sparrow or anything larger without a just cause, then Allah the Exalted will ask him about it on the Day of Resurrection."(An-Nasa’i). He also said "Do not use the backs of your animals as chairs. Allah has made them subject to you, so that by them you can reach places that you would not otherwise be able to reach except with great
fatigue." (Abu Dawud). The Prophet (SAWS) once passed by a camel that was so emaciated that its back had almost reached its stomach. He said, "Fear Allah in these beasts who cannot speak." (Abu Dawud). the Messenger of Allah (SAWS), once saw a donkey which had been branded on its face and he said, "May Allah curse the one who branded it." (Muslim). A group of Companions were once on a journey with the Prophet (SAWS), and he left them for a while. During his absence, they saw a bird with its two young, and they took the young ones from the nest. The mother bird was circling above in the air, beating its wings in grief, when the Prophet (SAWS) came back. He said, "Who has hurt the feelings of this bird by taking its young? Return them to her." (Muslim). The narration of the person whose sins were forgiven for quenching the thirst of a dog is also well known.

When animals are slaughtered for food there are several guidelines to be met. The knife must be sharpened and this must not happen within the sight of the animal. The animals must not be made to witness other animals being slaughtered. The slit at the throat has to happen in a quick, single, back and forth motion cutting the throat, windpipe and blood vessels making sure that the spine is not hurt. The animal must be allowed to bleed out. Amidst the controversy in the secular world surrounding the humaneness of the Halal method of slaughter some scientists maintain that in this method, the animal loses consciousness immediately due to the sudden drop of blood pressure in the head. The pain is minimized as the flow of blood to the nerve of the brain responsible for pain is disconnected. Wilhelm Schulze, A German veterinary science professor concluded in his research study that "the Islamic way of slaughtering is the most humane method of slaughter and that captive bolt stunning, practiced in the West, causes severe pain to the animal". 42 43 44

**Ahl-ul-Dhimmah**

The Messenger of Allah (SAWS) said: "He who hurts a Dhimmi hurts me, and he who hurts me annoys Allah." [Tabarani]. The Dhimmi are protected citizens of the Khilafah and enjoy all the rights of citizenship such as protection, guaranteed living and fair treatment. They are exempt from joining the armed forces although they can do so on their own. They can be civil servants and directors of the administrative government departments. Their wealth is protected and if they are poor and unable to find work they are entitled to state benefits from the Khilafah’s Treasury (Bait ul-Mal). Umar ibn al-Khattab (RA) once passed by an old dhimmi begging at doors, and said: "We have not done justice to you if we have taken Jizya from you in the prime of your youth and neglected you in your old age." He then ordered from the treasury what was suitable for him.45

The Khilafah is forbidden from discriminating between citizens on the basis of race, colour, religion or anything else in administering justice. A famous example of this is the trial of a Jew who possessed a cuirass which actually belonged to Ali (RA), the then Khalifah. Ali (RA) could only produce his sons as witnesses and since a son’s witness on behalf of his father is not acceptable in the Islamic court, the judge, Shurayh ruled it in favour of the Jew. The Jew later admitted his crime and accepted Islam on witnessing the justice it offers. So here we have the caliph himself, the ruler of the Muslims and the vast Islamic state, standing in the court to get his right and we have a person from the minority winning the case for lack of evidence from the caliph! In the context of this paper, the non-Muslims can even consume things that are prohibited to the Muslims such as pork and alcohol as long as they do not sell these to the Muslims and they do not market these openly. They can also choose to conduct their social and private affairs according to their religious beliefs and can set up private courts to settle their personal matters within their community.46 47 48 49
It is important to note that the Khilafah being referred to here is only the true Islamic state and not merely a Muslim state because in many of the Muslim nations today, democratic or otherwise, minorities face oppression just as any other non-Muslim nation. It is only the Khilafah that will liberate people from wedge politics and its unfortunate consequences. It is the Khilafah that is feared by the oppressive political players of the world because the emergence of the Khilafah for them would mean ‘Game Over’.

- **Faisal and Ibn Ahmed**
- **3 Jumada t-Tania 1434 al-Hijri / 14 April, 2013 CE**

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8. > http://www.nabhani.in/1434-01-04/article2769894.ece